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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/507,026	01/25/2005	Franca Leo	Q832282	7691
23373	7590	05/16/2006	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			VALENTI, ANDREA M	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/507,026

Applicant(s)

LEO, FRANCA

Examiner

Andrea M. Valenti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: applicant has not provided all of the proper sections of the specification required in the below content list e.g. background of invention and Brief Summary of Invention.

Appropriate correction is required.

Content of Specification

- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) The Names Of The Parties To A Joint Research Agreement: See 37 CFR 1.71(g).
- (e) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.

Or alternatively, Reference to a "Microfiche Appendix": See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.

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- (f) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
- (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
 - (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."
- (g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (h) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (i) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.

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- (j) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).
- (k) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).
- (l) Sequence Listing. See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,419,283 to Leo in view of U.S. Patent No. 6,178,922 to Denesuk and U.S. Patent Pub. No. US 6,926,916 to Day et al.

Regarding Claims 1, 2, and 3, Leo teaches a chewable toy for animals, which can be produced by the moulding into a desired configuration of a mixture comprising:

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100 parts by weight of a degradable polymeric composition comprising a starchy material (Leo abstract line 5) and a degradable ethylene copolymer.

Leo teaches the addition of edible lubricants, vitamins, proteins, mineral salts, flavouring, therapeutic substances, dental care products, products that enhance attractiveness of the toy (Leo Col. 2 line 46-50 and Col. 1 line 55-61), but is silent on explicitly teaching from 5 to 30 (or 10 to 20) parts by weight of isomalt, and from 0.5 to 5 (or 1 to 3) parts by weight of garlic or derivatives thereof. However, Denesuk teaches that it is old and notoriously well-known to incorporate as additives garlic and sugar to animal toys (Denesuk Col. 4 line 28-31 and Col. 15 line 19-21; claim 49, 50, 68). It would have been obvious to one of ordinary skill in the art to modify the teachings of Leo with the teachings of Denesuk at the time of the invention since the modification is merely the addition of attract and flavouring agents to provide a nutritive attractant and a natural anti-microbial agent as taught by Denesuk. It would have been obvious through routine tests and experimentation to derive a desire ratio of garlic and sugar agents to optimize the system.

Leo as modified by Denesuk teaches that sugar function both as a nutritive attractant and an anti-microbial agent, but is silent on explicitly teachings the sugar is isomalt. However, Day teaches that it is notoriously well-known that isomalt is known sweetening agent and a substitute for sugar (Day Col. 8 line 8-14 and Col. 1 line 38-39). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Leo with the teachings of Day at the time of the invention since the modification is merely an engineering design choice involving the selection of a known

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alternate equivalent sugar ingredient performing the same intended function selected as a known material for intended use [*Leshin* 125 USPQ 416] to reduce choleric intake.

Regarding Claim 9, Leo as modified teaches the starchy material is selected from the group consisting of starch, hydrolyzed starch, starch dextrin and mixtures thereof (Leo Col. 1 line 28-29).

Regarding Claim 10, Leo as modified teaches in which the degradable ethylene copolymer is selected from the group consisting of polyethylene-acrylic acid, polyethylene-vinyl alcohol and mixtures thereof (Leo Col. 1 line 43).

Regarding Claim 11, Leo as modified teaches in which the ratio by weight between the ethylene copolymer and the starchy material is within the range between 1:6 and 2: 1 and, preferably, within the range between 1:6 and 1:1 (Leo Col. 1 line 47-48).

Regarding Claim 12, Leo as modified teaches in which the polymeric composition also includes a plasticizer in a quantity of between 10% and 40% by weight, the plasticizer being selected from the group consisting of glycerol, sorbitol, sorbitan, manitol, maltitol, hydrogenated starch syrup, sucrose, maltose, fructose, and mixtures thereof (Leo Col. 1 line 52-54 and line 35).

Regarding Claim 13, Leo as modified teaches having the shape of a bone (Leo Fig. 1).

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,419,283 to Leo in view of U.S. Patent No. 6,178,922 to Denesuk and U.S.

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Patent Pub. No. US 6,926,916 to Day et al. as applied to claim 1 above, and further in view of U.S. Patent No. 5,391,390 to Leo.

Regarding Claim 4, Leo '283 as modified teaches the addition of garlic and that the garlic can be produced by various methods, but is silent on explicitly teaching which the derivative of garlic is a powder which can be produced as a result of the formation of a suspension of garlic bulbs in water in a ratio by weight within the range between 1:2 and 1:5 and subsequent lyophilization of the suspension with a preliminary stage of cooling to -50C for from 4 to 8 hours followed by a heating stage with a duration of between 12 and 24 hours, to a temperature no greater than 50OC. However, Patent '390 to Leo teaches a known method of producing garlic powder (Leo '390 claim 1). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Leo '283 with the teachings of Leo '390 at the time of the invention since the modification is merely the an engineering design choice involving the selection of known garlic production method selected to prevent the offensive day-after effect as taught by Leo '390.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,419,283 to Leo in view of U.S. Patent No. 6,178,922 to Denesuk and U.S. Patent Pub. No. US 6,926,916 to Day et al. as applied to claim 1 above, and further in view of U.S. Patent No. 5,789,012 to Slimak.

Regarding Claim 5, Leo as modified teaches the addition of edible lubricants, vitamins, proteins, mineral salts, flavouring, therapeutic substances, **dental care**

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products, products that enhance attractiveness of the toy (Leo Col. 2 line 46-50 and Col. 1 line 55-61), but is silent on explicitly teaching in which the mixture also comprises from 1 to 20, and preferably from 5 to 10, parts by weight of chestnut flour per 100 parts by weight of degradable polymeric composition. However, Slimak teaches a chestnut flour as an ingredient in a variety of food products (Slimak abstract). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Leo with the teachings of Slimak at the time of the invention since the modification is merely the addition of a flavouring agent to enhance an animals attention to the toy. It would have been obvious to one of ordinary skill through routine tests and experimentation to derive the desired ratio of proportion of agents to optimize the system.

Claims 5, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,419,283 to Leo in view of U.S. Patent No. 6,178,922 to Denesuk and U.S. Patent Pub. No. US 6,926,916 to Day et al as applied to claim 1 above, and further in view of U.S. Patent No. 6,586,027 to Axelrod.

Regarding Claims 6 and 7, Leo as modified teaches edible lubricants, vitamins, proteins, mineral salts, flavouring, therapeutic substances, dental care products, products that enhance attractiveness of the toy (Leo Col. 2 line 46-50 and Col. 1 line 55-61), but is silent on explicitly teaching in which the mixture also comprises from 5 to 30, and preferably from 15 to 20, parts by weight of ground raw animal hide per 100 parts by weight of degradable polymeric composition; in which the mixture also comprises from 0.01 to 1 part by weight of hide aroma per 100 parts by weight of degradable

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polymeric composition. However, Axelrod teaches the combination of starch and polymers and rawhide in combination for forming a pet chew toy (Axelrod abstract; Col. 2 line 26-28). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Leo with the teachings of Axelrod at the time of the invention since the modification is merely the addition of a flavouring agent to attract a pet's interest. It would have been obvious to one of ordinary skill through routine tests and experimentation to derive the desired ratio of proportion of agents to optimize the system.

Regarding Claim 5, Leo as modified teaches that chestnut is a known herbal addition to a pet chew toy (Leo Col. 3 line 67).

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,419,283 to Leo in view of U.S. Patent No. 6,178,922 to Denesuk and U.S. Patent Pub. No. US 6,926,916 to Day et al as applied to claim 1 above, and further in view of U.S. Patent No. 5,618,518 to Stookey.

Regarding Claim 8, Leo as modified teaches the addition of edible lubricants, vitamins, proteins, mineral salts, flavouring, therapeutic substances, **dental care** products, products that enhance attractiveness of the toy (Leo Col. 2 line 46-50 and Col. 1 line 55-61), but is silent on explicitly teaching the mixture also comprises from 0.5 to 3, and preferably from 1 to 2, parts by weight of sodium hexametaphosphate per 100 parts by weight of degradable polymeric composition. However, Stookey teaches an animal chew toy with a dental additive of sodium hexametaphosphate (Stookey Abstract). It

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would have been obvious to one of ordinary skill in the art to further modify the teachings of Leo with the teachings of Stookey at the time of the invention to prevent calculus as taught by Stookey. It would have been obvious to one of ordinary skill through routine tests and experimentation to derive the desired ratio of proportion of agents to optimize the system.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,379,725; PCT WO 91/02023; U.S. Patent Pub No. US 2003/0087008; U.S. Patent No. 6,576,246; U.S. Patent No. 6,972,133; U.S. Patent No. 6,455,083; U.S. Patent No. 6,904,870; U.S. Patent No. 3,104,648.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 571-272-6895. The examiner can normally be reached on 7:00am-5:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Andrea M. Valenti
Patent Examiner
Art Unit 3643

01 May 2006